

Superseded 5/12/2015

62A-7-201 Confinement -- Facilities -- Restrictions.

- (1) Children under 18 years of age, who are apprehended by any officer or brought before any court for examination under any provision of state law, may not be confined in jails, lockups, or cells used for persons 18 years of age or older who are charged with crime, or in secure postadjudication correctional facilities operated by the division, except as provided in Subsection (2), other specific statute, or in conformance with standards approved by the board.
- (2)
 - (a) Children charged with crimes under Section 78A-6-701, as a serious youth offender under Section 78A-6-702 and bound over to the jurisdiction of the district court, or certified to stand trial as an adult pursuant to Section 78A-6-703, if detained, shall be detained in a jail or other place of detention used for adults.
 - (b) Children detained in adult facilities under Section 78A-6-702 or 78A-6-703 prior to a hearing before a magistrate, or under Subsection 78A-6-113(3), may only be held in certified juvenile detention accommodations in accordance with rules promulgated by the division. Those rules shall include standards for acceptable sight and sound separation from adult inmates. The division certifies facilities that are in compliance with the division's standards. The provisions of this Subsection (2)(b) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).
- (3) In areas of low density population, the division may, by rule, approve juvenile holding accommodations within adult facilities that have acceptable sight and sound separation. Those facilities shall be used only for short-term holding purposes, with a maximum confinement of six hours, for children alleged to have committed an act which would be a criminal offense if committed by an adult. Acceptable short-term holding purposes are: identification, notification of juvenile court officials, processing, and allowance of adequate time for evaluation of needs and circumstances regarding release or transfer to a shelter or detention facility. The provisions of this Subsection (3) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).
- (4) Children who are alleged to have committed an act which would be a criminal offense if committed by an adult, may be detained in holding rooms in local law enforcement agency facilities for a maximum of two hours, for identification or interrogation, or while awaiting release to a parent or other responsible adult. Those rooms shall be certified by the division, according to the division's rules. Those rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.
- (5) Willful failure to comply with any of the provisions of this section is a class B misdemeanor.
- (6)
 - (a) The division is responsible for the custody and detention of children under 18 years of age who require detention care prior to trial or examination, or while awaiting assignment to a home or facility, as a dispositional placement under Subsection 78A-6-117(2)(f)(i) or 78A-6-1101(3)(a), and of youth offenders under Subsection 62A-7-504(8). The provisions of this Subsection (6)(a) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).
 - (b) The division shall provide standards for custody or detention under Subsections (2)(b), (3), and (4), and shall determine and set standards for conditions of care and confinement of children in detention facilities.
 - (c) All other custody or detention shall be provided by the division, or by contract with a public or private agency willing to undertake temporary custody or detention upon agreed terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used in law

enforcement and corrections systems. The provisions of this Subsection (6)(c) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).